

## REMARKS

In the October 4, 2004 Office Action, the Examiner noted that claims 1-29 were pending in the application; indicated that the certified copy of priority application had not been received; objected to the specification; rejected claim 1 and other claims under the second paragraph of 35 U.S.C. § 112; rejected claims 1, 4-7, 10, 11 and 27-29 under 35 U.S.C. § 102(e); and rejected claims 2, 3, 8, 9 and 12-26 under 35 U.S.C. § 103(a). In rejecting the claims, U.S. Patents 5,774,534 to Mayer; 6,219,639 to Bakis et al.; 6,463,415 to St. John; 6,567,775 to Maali et al.; 6,571,279 to Herz et al.; 6,587,838 to Esposito et al.; and 6,332,135 to Conklin et al. (References A-G, respectively) were cited. Claims 1-29 remain in the case. The Examiner's rejections are traversed below.

### Priority

In the first paragraph on page 2 of the Office Action, the Examiner stated "that applicant has not filed a certified copy of ... Japan 2000-255713 ... as required by 35 U.S.C. 119(b)." Attached as Exhibit A are copies of the application transmittal, the Submission of the certified copy of Japanese Patent Application 2000-255713, the first page of the certified copy of the priority application, the English translation thereof and a postcard indicating that the certified copy of the priority application was received by the U.S. Patent and Trademark Office on August 22, 2001. The Examiner is respectfully requested to acknowledge that the certified copy of the priority application was received and to indicate whether another certified copy of the application must be filed.

### Specification

In the second and third paragraphs on page 2 of the Office Action, the Examiner objected to the specification due to the lack of explanation of the abbreviation of CM and required correction of the specification. The first paragraph of the specification has been amended to provide the meaning of the abbreviation CM used in the art of commerce information distribution. As an example of the use of this abbreviation in the art, attached as Exhibit B is U.S. Patent 6,275,646 to Tada et al. Since CM is an accepted abbreviation for the words "commercial message", no "new matter" has been added by the changes made to the specification. Withdrawal of the objection is respectfully requested.

**Rejection under 35 U.S.C. § 112, Second Paragraph**

On the first half of page 3 of the Office Action, claim 1 "and other claims containing 'CM'" were rejected under the second paragraph of 35 U.S.C. § 112 for indefiniteness. To overcome this rejection and avoid the continued treatment of CM as "a generic word", all occurrences of CM in the claims have been replaced with the words corresponding thereto in the relevant art. Therefore, these changes do not relate to patentability. Withdrawal of the rejection under the second paragraph of 35 U.S.C. § 112 is respectfully requested.

**Rejections under 35 U.S.C. § 102(e)**

On pages 3-6 of the Office Action, claims 1, 4-7, 10, 11 and 27-29 were rejected under 35 U.S.C. § 102(e) as anticipated by Mayer, even though Mayer was issued in 1998, three years prior to filing of the application. In rejecting independent claims 1 and 10, the Abstract and Fig. 1 were cited as disclosing the first two operations recited in claim 1. However, nothing has been found in the Abstract or Fig. 1, or elsewhere in Mayer, regarding what initiates the broadcast of "direct-response television advertisements" (e.g., Abstract, lines 7-8). The operations described by Mayer start with broadcasting such advertisements with different telephone numbers on different television stations, so that the advertisement to which a caller is responding can be identified based on the time of day, customer location, and telephone number called.

Claim 1 recites details of how the broadcast of a commercial message is initiated, specifically "receiving a request to generate a commercial message broadcast and commercial message information relating to the commercial message broadcast from at least one of a merchandise producer and a service provider" (claim 1, lines 2-4) and then "requesting broadcast of the commercial message broadcast and the commercial message information relating to the commercial message broadcast generated according to commerce information" (claim 1, lines 5-7). Since Mayer does not teach or suggest what operations are performed prior to broadcasting a commercial message or "direct-response television advertisement," claim 1 patentably distinguishes over Mayer.

Furthermore, nothing has been found in Mayer regarding separate "commercial message information relating to ... [a] commercial message broadcast" (claim 1, line 3). The only information that Mayer describes as being transmitted to a user prior to receiving a telephone call is the television advertisement. Claim 1 recites that "when a client sees the commercial message broadcast" (claim 1, lines 9-10), the client "performs an instruction for displaying the commercial

message information relating to the commercial message broadcast" (claim 1, lines 10-11). No suggestion has been found in Mayer of "displaying" anything in response to an instruction performed by a viewer when the television advertisement has been seen.

For the above reasons, Mayer does not anticipate claim 1 as amended. Limitations similar to those quoted above in claim 1 are now recited in claims 10, 27 and 28. Therefore, it is submitted that claims 10, 27 and 28 patentably distinguish over Mayer for the reasons discussed above. Since claims 4-7 and 11 depend from claims 1 and 10, respectively, it is submitted that claims 4-7 and 11 also patentably distinguish over Mayer.

Claim 29 recites an apparatus for managing commerce information that includes "a first reception unit receiving information about merchandise or a service upon receipt of a request from a merchandise producer or a service provider" (claim 29, lines 3-4), in addition to "a second reception unit receiving information about a client or commercial message about merchandise or a service as commerce information when the client purchases the merchandise or the service" (claim 29, lines 5-7). As discussed above with respect to claim 1, nothing has been found in Mayer corresponding to the first reception unit. Therefore, it is submitted that claim 29 patentably distinguishes over Mayer.

#### **Rejections under 35 U.S.C. 103(a)**

On pages 6-9 of the Office Action, claims 2-3 were rejected under 35 U.S.C. § 103 as unpatentable over Mayer in view of Conklin et al. In rejecting claims 2 and 3, Conklin et al. was cited as disclosing "aggregated catalog systems" (column 2, line 65) and communication between a corporation and its suppliers and buyers via the Internet (column 2, lines 1-5) using standardized languages, including XML (column 28, line 34). Nothing was cited or has been found in Conklin et al. regarding the operations performed to generate a commercial message broadcast with related commercial message information, as recited on lines 2-7 of claim 1. Therefore, the addition of Conklin et al. to Mayer does not overcome the deficiencies of Mayer discussed above. Since claims 2 and 3 depend from claim 1, it is submitted that claims 2 and 3 patentably distinguish over Mayer in view of Conklin et al.

On pages 9-12 of the Office Action, claims 8, 9, 24 and 25 were rejected under 35 U.S.C. § 103(a) as unpatentable over Mayer in view of Esposito et al. In rejecting these claims, Esposito et al. was cited as disclosing "a system for providing real-time notification of purchaser requirements in a heterogeneous network environment" (Abstract, lines 1-3) which uses a

wireless network and a vendor computer "storing information about products and services in a product database, and a customer database" (Abstract, lines 11-12). The first operation in the only cited flowchart, Fig. 4, starts with "OBTAINED FROM USER PRODUCT AREA OF INTEREST" and nowhere in the cited text or anywhere else in Esposito et al. has anything been found about operations that would occur before this information obtained from the user. Thus, nothing has been cited or found in Esposito et al. relevant to the operations recited on lines 2-7 of claim 1 or lines 3-10 of claim 10 to overcome the deficiencies of Mayer discussed above. Since claims 8 and 9 depend from claim 1 and claims 24 and 25 depend from claim 10, it is submitted that claims 8, 9, 24 and 25 patentably distinguish over Mayer in view of Esposito et al. for the reasons discussed above with respect to claim 1.

On pages 13-16 of the Office Action, claims 12, 14, 16 and 17 were rejected under 35 U.S.C. § 103(a) as unpatentable over Mayer in view of Maali et al. In rejecting these claims, Maali et al. was cited as disclosing audio and video based speaker identification for multimedia information access based on a linear combination of audio and video rank-lists produced using audio and video information received from a speaking person, where "normalized slopes of the two lines are used as the weight of the respective results when combining the scores from the audio-based and video-based speaker analysis" (Abstract, next to last sentence). Nothing was cited or has been found in Maali et al. suggesting modification of Mayer to perform the operations recited on lines 3-6 of claim 10 or that "the commercial message information relating to the commercial message broadcast [is] displayed according to an instruction" (claim 10, lines 7-9). Since claims 12, 14, 16 and 17 depend from claim 10, it is submitted that claims 12, 14, 16 and 17 patentably distinguish over Mayer in view of Maali et al. for the reasons discussed above with respect to claim 10.

On pages 16-20, claims 13, 20, 21 and 26 were rejected under 35 U.S.C. § 103(a) as unpatentable over Mayer in view of Maali et al. and further in view of Herz. In rejecting these claims, the Abstract and column 4, lines 56-67 of Herz were cited as disclosing a delivery system that is enhanced by customizing the information displayed to an information recipient based on the location of the recipient. The information is displayed "on an electronic 'billboard' that is located in or on a store, or along a roadway, or along a walkway" (column 4, lines 51-53). The system stores "user profiles contain[ing] information about users' buying habits ... [which are used] to determine the characteristics of the present user audience to select a revised set of advertisements to be transmitted to the display" (column 4, lines 53-58). "Detailed user location tracking data can be used by a server to preposition advertising on a multitude of billboards

based upon user direction of movement and rate of movement calculations" (column 4, lines 59-62). Although not in a cited portion of Herz et al., the location of the users is based on "the location of the wireless subscriber station" (column 2, lines 64-65), e.g., "pagers, cellular phones, and the like" (column 2, line 54) carried by a user. Nothing was cited or has been found in Herz et al., alone or in combination with Maali et al., suggesting modification of Mayer to perform the operations recited on lines 3-10 of claim 10 discussed above as not disclosed by Mayer. Therefore, it is submitted that claims 13, 20, 21 and 26, which depend from claim 10, patentably distinguish over Mayer in view of Maali et al. and Herz et al. for the reasons discussed above with respect to claim 10.

On pages 20-23 of the Office Action, claims 15, 22 and 23 were rejected under 35 U.S.C. § 103(a) as unpatentable over Mayer in view of Maali et al. and further in view of St. John. In rejecting these claims, the Abstract and column 1, lines 20-25 of St. John were cited as disclosing voice pattern authentication for border crossing control, including an alternative embodiment that includes detecting emotion in voice signals. Nothing was cited or has been found in St. John, alone or in combination with Maali et al., suggesting modification of Mayer to perform the operations recited in lines 3-10 of claim 10 discussed above as not disclosed by Mayer. Since claims 15, 22 and 23 depend from claim 10, it is submitted that claims 15, 22 and 23 patentably distinguish over Mayer in view of Maali et al. and St. John for the reasons discussed above with respect to claim 10.

On pages 23-26 of the Office Action, claims 18 and 19 were rejected under 35 U.S.C. § 103(a) as unpatentable over Mayer in view of Maali et al. and further in view of Bakis et al.. In rejecting these claims, the Abstract and column 8, lines 7-14 of Bakis et al. were cited as disclosing identification of users based on lip contour in combination with a speaker recognition system. Nothing was cited or has been found in Bakis et al., alone or in combination with Maali et al., suggesting modification of Mayer to perform the operations recited in lines 3-10 of claim 10 discussed above as not disclosed by Mayer. Since claims 18 and 19 depend from claim 10, it is submitted that claims 18 and 19 patentably distinguish over Mayer in view of Maali et al. and Bakis et al. for the reasons discussed above with respect to claim 10.

## **Summary**

It is submitted that the references cited by the Examiner, taken individually or in combination, do not teach or suggest the features of the present claimed invention. Thus, it is

submitted that claims 1-29 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 1/4/05

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on 1/4/2005  
STAAS & HALSEY  
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Date: 1/4/05



<b>UTILITY PATENT APPLICATION</b>		Attorney Docket No. 826.1742
<b>TRANSMITTAL</b>		<i>First Named Inventor or Application Identifier:</i> Toru OZAKI, et al.
<i>(Only for original applications)</i>		Express Mail Label No.
<b>APPLICATION ELEMENTS</b> <i>See MPEP chapter 600 concerning utility patent application contents.</i>		ADDRESS TO: <b>Assistant Commissioner for Patents</b> Box Patent Application Washington, DC 20231
<p>1. <input checked="" type="checkbox"/> Fee Transmittal Form</p> <p>2. <input checked="" type="checkbox"/> Specification, Claims &amp; Abstract ....[Total Pages: <u>104</u> ]</p> <p>3. <input checked="" type="checkbox"/> Drawing(s) (35 USC 113) .....[ Total Sheets: <u>21</u> ] [FIGS. <u>1-21</u> ]</p> <p>4. <input checked="" type="checkbox"/> Oath or Declaration .....[ Total Pages: <u>4</u> ]</p> <p>a. <input checked="" type="checkbox"/> Newly executed (original or copy)</p> <p>b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d))</p> <p>i. <input type="checkbox"/> <b>DELETION OF INVENTOR(S)</b> Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).</p> <p>5. <input type="checkbox"/> Verified Statement Claiming Small Entity Status</p> <p>6. <input type="checkbox"/> Application Data Sheet. See 37 C.F.R. 1.76</p> <p>7. <input type="checkbox"/> CD-Rom or CD-R in duplicate, large table or Computer Program (Appendix)</p> <p>8. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission (<i>if applicable, all necessary</i>)</p> <p>a. <input type="checkbox"/> Computer Readable Form (CRF)</p> <p>b. <input type="checkbox"/> Specification Sequence Listing on:</p> <p>i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or</p> <p>II. <input type="checkbox"/> paper</p> <p>c. <input type="checkbox"/> Statement verifying identity of above copies</p>		
<p><b>ACCOMPANYING APPLICATION PARTS</b></p> <p>9. <input checked="" type="checkbox"/> Assignment (cover sheet &amp; document(s)) to Fujitsu Limited of Kawasaki, Japan</p> <p><input type="checkbox"/> for publication of assignee information under 37 CFR 1.215(b)</p> <p>10. <input type="checkbox"/> 37 CFR 3.73(b) Statement (<i>when there is an assignee</i>) <input type="checkbox"/> Power of Attorney</p> <p>11. <input type="checkbox"/> English Translation Document (<i>if applicable</i>)</p> <p>12. <input checked="" type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input checked="" type="checkbox"/> Copies of IDS Citations</p> <p>13. <input type="checkbox"/> Preliminary Amendment</p> <p>14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) (<i>Should be specifically itemized</i>)</p> <p>15. <input checked="" type="checkbox"/> Certified Copy of Priority Document(s) (<i>if foreign priority is claimed</i>)</p> <p>16. <input checked="" type="checkbox"/> Request and Certification for Nonpublication under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent</p> <p>17. <input type="checkbox"/> Other:</p> <p>18. <b>CORRESPONDENCE ADDRESS</b></p> <p style="text-align: center;"><b>COPY</b></p>		
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